

# FPPC *Bulletin*



June 2006

Fair Political Practices Commission

Volume 32, No. 2

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## **Toll-free Advice Line: 1-866-ASK-FPPC**

Public officials, local government filing officers, candidates, lobbyists and others with obligations under the Political Reform Act are encouraged to call toll-free for advice on issues including campaign contributions and expenditures, lobbying and conflicts of interest. *FPPC staff members answer thousands of calls for telephone advice each month.*

## **New Post-Governmental Restriction For Local Officials**

By Brian Lau  
FPPC Counsel

A new post-governmental employment restriction, or "revolving door" provision, covering many local government positions takes effect July 1, 2006.

Generally, the new law, Government Code section 87406.3, prohibits specified local officials from making certain types of appearances and communications before their former agency for one year after leaving that agency. The statute was passed by the Legislature as Senate Bill 8 (Soto) and signed into law by the Governor last year.

*Which local public officials are subject to this new one-year ban?*

The new law covers many local officials in California. Specifically, it applies to the following elected or appointed positions:

- ◆ Local Elected Officials
- ◆ Chief Administrative Officers of Counties
- ◆ City Managers
- ◆ General Managers or Chief Administrators of Special Districts

*What types of appearances before and communications with an official's former agency are prohibited?*

If a local public official is subject to the new one-year ban, the official must determine whether a particular appearance or communication is prohibited. Appearances and communications are prohibited if the appearance or communication is made as an agent, attorney,

*(Continued on page 2)*

**California  
Fair Political  
Practices Commission**

**Commissioners**

Liane Randolph, Chair  
Philip Blair  
Sheridan Downey III  
A. Eugene Huguenin, Jr.  
Ray Remy

**Commission Meetings**

Meetings are generally scheduled monthly in the Commission Hearing Room, 428 J Street, 8<sup>th</sup> Floor, Sacramento. Please contact the Commission or check the FPPC web site, <http://www.fppc.ca.gov>, to confirm meeting dates.

Pursuant to section 11125 of the Bagley-Keene Open Meeting Act, the FPPC is required to give notice of its meetings ten (10) days in advance of the meeting. In order to allow time for inclusion in the meeting agenda and reproduction, all Stipulation, Decision and Order materials must be received by the FPPC no later than three (3) business days prior to the 10-day notice date.

The Commission meeting agenda and supporting documents are available free of charge on the Commission's web site at <http://www.fppc.ca.gov>. Additionally, past and future agendas are posted on the web site.

## ...New Post-Governmental Restriction

(Continued from page 1)

or in representation of any other person, for compensation, and to influence any "administrative or legislative action, or any proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property." If a particular appearance or communication is prohibited, the local public official may not make any formal or informal appearances before, or any oral or written communications to, his or her former local government agency including any committee, subcommittee, present member, officer, or employee of the agency for a period of one year. The complete text of new section 87406.3 is available on the FPPC's website at:

<http://www.fppc.ca.gov/Act/2006Act.PDF>

### Example

*Betty resigns from her council member position with the Lake City Council on September 1, 2006. She accepts a job with Acme Real Estate Development. On February 1, 2007, the city council proposes new flood protection requirements for new developments. Acme does not believe that the new flood protection requirements are necessary. The following week, on behalf of Acme, Betty calls her friend, council member Jones, and informs council member Jones that Acme staunchly opposes the new flood protection requirements. Betty has made an appearance or communication prohibited under the new one-year ban.*

*Are there specific exemptions to the new prohibition?*

Section 87406.3(b) exempts "any individual who is, at the time of the appearance or communication, a board member, officer, or employee of another local government agency or an employee or representative of a public agency and is appearing or communicating on behalf of that agency."

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The *Bulletin* is published quarterly on the FPPC web site. To receive the *Bulletin* by e-mail, use our web site Mailing Lists tool at <http://www.fppc.ca.gov/index.html?id=408>

## ...New Post-Governmental Employment Restriction

(Continued from page 2)

### Example

*Kevin leaves his council member position with the Lake City Council on January 1, 2007, when his term expires. He accepts an engineering position with the Lake County Water District on January 15, 2007. On February 1, 2007, the city council proposes new flood protection requirements for new developments. At the city council's March 2007 meeting, Kevin appears on behalf of the Water District to argue that the new flood protection requirements do not adequately protect Lake City. Kevin has not made an appearance or communication prohibited under the new one-year ban as Kevin is appearing or communicating with the city council on behalf of another public agency.*

In addition, the new law does not preclude a local government agency from adopting its own ordinance or policy that restricts the appearance of a former local official before that local government agency, if that ordinance or policy is more restrictive than the new state law.

### Example

*Valley City has a one-year ban on all appearances and communications to influence a city agency made by a former elected city official, city manager, and city attorney. George, a former city attorney, retires on November 1, 2006. In April 2007, a private company wants to hire George to fight a proposed city ordinance since George has extensive contacts with city officials. As a former city attorney, George would not be subject to the new one-year ban of Government Code section 87406.3. However, George is still prohibited from making any appearance or communication to influence a city agency under the local ban, which is more restrictive.*

*Does the law apply to officials who retire before July 1, 2006?*

No. For example, the Commission recently advised a former city council member that the

**“Generally, the new law, Government Code section 87406.3, prohibits specified local officials from making certain types of appearances and communications before their former agency for one year after leaving that agency.”**

new one-year ban did not apply to his particular circumstances because he retired prior to July 1, 2006. Specifically, the Commission concluded that because the council member had left local government agency employment prior to the July 1, 2006 operative date of the statute, the new one-year ban does not apply to his interactions with his former agency employer. (Griffith Advice Letter, No. I-06-040.)

### Commission regulations

It is anticipated that proposed regulations interpreting this statute will be considered for prenotice discussion in October 2006 and that the Commission will consider the new regulations for adoption in December 2006. In the interim, local government agency officials who have questions about the application of the one-year ban to their particular circumstances are encouraged to request written advice from the Commission pursuant to Government Code section 83114(b). This is encouraged, in particular, if questions pertain to whether an appearance or communication is for the purpose of influencing “administrative” or “legislative” action since the statute has particular definitions of these terms, which differ slightly from other similar definitions in the Act. Those unfamiliar with the advice process are encouraged to visit the “requesting advice” page on our website at:

<http://www.fppc.ca.gov/index.html?id=18>

Or, those with questions can call the FPPC’s toll-free advice line at 1-866-ASK-FPPC.

## Are You Participating in November Elections?



By Cynthia Jones  
FPPC Political Reform Consultant

Get the “essential skills” you need!

The FPPC is scheduling informative campaign seminars during the months leading up to the November elections. These seminars, hosted by staff political reform consultants, are part of the Commission’s continuing effort to provide assistance to candidates and treasurers on preparing campaign finance reports and observing the Political Reform Act’s requirements and prohibitions.

The workshops last approximately two hours and will give you the information you need to run for office without running afoul of the law.

Local candidates and officeholders, their controlled committees, and committees primarily formed to support or oppose local candidates are encouraged to attend. The training is given in a “user friendly” format so that candidates and committees, especially those with small budgets, have a resource guide. The training is presented by subject matter and addresses the most common issues of campaign disclosure for state and local elections.

Typically, candidates and their treasurers come away from these seminars feeling much more confident about how to complete their campaign finance disclosure reports.

Enroll now by calling 1-866-ASK-FPPC. There are a limited number of available seminar dates and locations, so call soon with your request!

To see the locations and times of workshops as they are scheduled, visit the workshop and seminars section of the FPPC’s website at:

<http://www.fppc.ca.gov/index.html?id=359>

### *Here’s what others are saying about the seminar:*

*“The trainer was very knowledgeable and gave great information”....*

*~SACRAMENTO*

*“...Extremely helpful workshop”*

*~OAKLAND*

*“The training was thorough; I learned SO MUCH”...*

*~SANTA ROSA*

*“The instructor was excellent!”...*

*~OCEANSIDE*

*“Exceeded my expectations in every way!”*

*~SAN DIEGO*

*“I feel like this seminar was personally directed to me and the issues I struggle with every day!”..*

*~LIVERMORE*

*“‘Extremely informative”*

*~ROSEMEAD*

## The Clerks' Corner



### Agencies Required to Review Conflict of Interest Codes, Report by October 1

#### Is your agency's conflict of interest code accurate?

By Tara Stock  
FPPC Political Reform Consultant

It's time for **local agencies** to review their conflict-of-interest codes. The Political Reform Act requires every local government agency to review its conflict of interest code biennially and to return a report to its code reviewing body no later than October 1 of each even-numbered year.

**No later than July 1, 2006**, each code reviewing body for local government agencies (i.e., county boards of supervisors and city councils) must notify all agencies in its jurisdiction that each agency must review its conflict of interest code to determine if amendments are necessary. The FPPC is the code reviewing body for multi-county agencies and will contact those agencies directly.

**No later than October 1, 2006**, each local government agency must return a report to its code reviewing body stating whether amendments to the conflict-of-interest code are necessary. *These notices are not sent to the FPPC.*

If an agency indicates that an amendment is necessary, the proposed amendments must be submitted to the code reviewing body within 90 days

for approval. For example, if an agency returns the notice on October 1, 2006, the agency must submit its proposed amendments by December 1, 2006. Amendments to an agency's conflict of interest code are not effective until they have been approved by the code reviewing body.

The FPPC will be hosting conflict of interest code seminars, which provide a thorough discussion of the code amendment process. The dates and locations for the seminars can be found on our website at:

<http://www.fppc.ca.gov/index.html?id=39>.

If you have any questions regarding the biennial review, please feel free to call the FPPC at (866) ASK-FPPC. Copies of biennial notices and additional information can be found on our website at:

<http://www.fppc.ca.gov/index.html?id=370>.

**Clerks:  
The FPPC's toll-free  
advice line  
is also for you.**

**Call:  
1-866-ASK-FPPC  
(1-866-275-3772)**





## New Ballot Measure Campaign Disclosure Manual

By Jon Matthews  
FPPC Information Officer

The FPPC has published a new ballot measure campaign disclosure manual, and will soon have updated versions of its manuals for state and local candidates and committees.

Campaign Disclosure Manual 3 offers extensive information for primarily formed ballot measure committees, including chapters on finances and recordkeeping, contributions, communications and when and where to file reports. The manual was produced as part of a major FPPC staff publications project and was approved by the Commission at its May meeting.

The manual is available for free for viewing or downloading on the FPPC's website at:

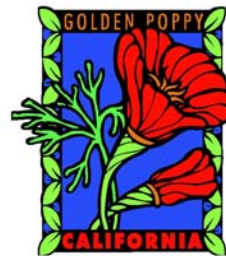
<http://www.fppc.ca.gov/index.html?ID=234#cam>

At its June 8 meeting, the Commission also approved two revised and updated manuals for state and local candidates and their committees. The manuals will be available soon on the website.

Also at the June meeting, the Commission approved a revised Form 461 (for Major Donors and Independent Expenditure Committees). The new form will also be posted on the FPPC website.

### Campaign Disclosure Manual 3

*Information for Committees  
Primarily Formed to Support  
or Oppose a Ballot Measure*



**California Fair Political  
Practices Commission**

Toll-free advice line: 1 (866) ASK-FPPC  
Web site: [www.fppc.ca.gov](http://www.fppc.ca.gov)

May 2006

## Fair Political Practices Commission 2006 Commission Meeting Schedule

The Fair Political Practices Commission currently plans to meet on the following dates during the remainder of 2006:

**Wednesday, July 12**  
**No August meeting**  
**Thursday, September 7**

**Thursday, October 5**  
**Thursday, November 2**  
**Thursday, December 14**

Meetings generally begin at 9:45 a.m. in the FPPC's 8th floor hearing room at 428 J Street, Sacramento. But please check the FPPC website regularly as dates and times can change. The direct link to our agenda page is: <http://www.fppc.ca.gov/index.html?id=329>

## Enforcement Summaries

### May Commission Meeting

#### Conflicts of Interest

**In the Matter of Agnes Sietsema, FPPC No. 04/006.** Staff: Commission Counsel Leon Schorr and Investigator III Sandra Buckner. As a Board member for the Winston City School Board, Respondent Agnes Sietsema violated the Political Reform Act by making two governmental decisions in which she had a financial interest on September 8, 2003 and November 24, 2003, in violation of Government Code section 87100 (2 counts). \$7,000 fine.

#### Campaign Reporting Violations

**In the Matter of Bruce Peotter and Friends of Bruce Peotter, FPPC No. 02/247.** Staff: Senior Commission Counsel Melodee A. Mathay and Investigator III Sandra Buckner. Respondent Bruce Peotter, was an unsuccessful candidate for Orange County Clerk-Recorder in the March 5, 2002 primary election. Respondent Friends of Bruce Peotter was the controlled committee of Respondent Peotter. Prior to the primary election, Respondents paid for and sent a mass mailing that did not contain proper sender identification, in violation of Government Code section 84305, subdivision (c) (1 count). \$1,500 fine.

**In the Matter of Diana R. Hall and Committee to Re-Elect Judge Diana R. Hall, FPPC No. 04/220.** Staff: Commission Counsel Amanda Saxton. Respondent Diana R. Hall was a successful candidate for Santa Barbara County Superior Court Judge in the March 5, 2002 primary election. Respondent Committee to Re-Elect Judge Diana R. Hall was the controlled committee of Respondent Hall. Respondents failed to inform a contributor of \$5,000 or more that the contributor may be required to file campaign re-

ports in violation of section 84105 of the Government Code (1 count); and failed to report information regarding a contribution in violation of section 84211, subdivision (f) of the Government Code (2 counts). Respondent Hall commingled a political contribution with her personal funds in violation of section 84307 of the Government Code (1 count); and failed to deposit a contribution in the campaign committee bank account in violation of section 85201, subdivision (c) of the Government Code (1 count). \$15,000 fine.

#### Statements of Economic Interests Violations - SEI Streamlined Program

**In the Matter of Thomas Clark, FPPC No. 05-686.** Staff: Political Reform Consultant Wayne Imberi. Thomas Clark, a member of the Sausalito-Marín City School District Board, failed to timely file a 2004 annual statement of economic interests in violation of Government Code section 87300 (1 count). \$100 fine.

#### Major Donor – Streamlined Program

**Failure to Timely File Major Donor Campaign Statements.** Staff: Chief Investigator Sue Straine and Political Reform Consultant Mary Ann Kvasager. The following entities have entered into stipulations for failing to file major donor campaign statements that were due during calendar years 2002, 2004 and 2005, in violation of Government Code Section 84200:

- ♦ **In the Matter of Po Long Lew/Po Long Lew, D.O., A Medical Professional Corp., FPPC No. 05-0843.** Po Long Lew/Po Long Lew, D.O., A Medical Professional Corp of Rosemead failed to timely file a semi-annual campaign statement disclosing contributions totaling \$11,250 in 2002 (1 count). \$400 fine.
- ♦ **In the Matter of Vincent M. Fortanasce MD, FPPC No. 06-0012.** Vincent M. Fortanasce MD of Arcadia failed to timely file a semi-annual campaign statement disclosing contributions totaling \$13,250 in 2004 (1 count). \$400 fine.

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- ◆ **In the Matter of On Broadway Event Center, FPPC No. 06-0065.** On Broadway Event Center of San Diego failed to timely file a semi-annual campaign statement disclosing contributions totaling \$22,931.26 in 2004 (1 count). \$400 fine.
- ◆ **In the Matter of S.K.Y. Companies and Affiliates, FPPC No. 06-0127.** S.K.Y. Companies and Affiliates of Los Angeles failed to timely file semi-annual campaign statements disclosing contributions totaling \$26,647.87 in 2004 (2 counts). \$800 fine.
- ◆ **In the Matter of Apple Computer, Inc., FPPC No. 06-0130.** Apple Computer, Inc. of Cupertino failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000 in 2005 (1 count). \$400 fine.

### Late Contribution – Streamlined Program

Failure to Timely File Late Contribution Reports – Proactive Program. Staff: Chief Investigator Sue Straine and Political Reform Consultant Mary Ann Kvasager. The following entities have entered into a stipulation for failure to file late contribution reports in 2004 in violation of Government Code Section 84203:

- ◆ **In the Matter of Physicians for Compassionate Care of California, Inc., FPPC No. 06-0011.** Physicians for Compassionate Care of California, Inc., of Arcadia failed to timely disclose late contributions totaling \$11,000 (2 counts). \$1,650 fine.
- ◆ **In the Matter of On Broadway Event Center, FPPC No. 06-0064.** On Broadway Event Center of San Diego failed to timely disclose late contributions totaling \$22,931.26 (2 counts). \$3,439.68 fine.

## April 13 Commission Meeting

### Accepting Contribution in State Office Building (Default Decision)

**In the Matter of Kevin Shelley, FPPC No. 04/575.** Staff: Senior Commission Counsel Melodee A. Mathay and Investigator III Sandra Buckner. In May 2003, Respondent Kevin Shelley, the California Secretary of State from January 2003 to March 2005, and a former member of the State Assembly from 1996 through 2002, received a \$2,000 campaign contribution in his state office in San Francisco, in violation of section 84309, subdivision (a). (1 count.) \$5,000 fine.

### Conflict of Interest

**In the Matter of Robert Good, FPPC No. 05/743.** Staff: Commission Counsel Tom Dyer and Investigator III Leon Nurse-Williams. As a council member for the City of Albany, Respondent Robert Good violated the Political Reform Act by making two governmental decisions in which he had a financial interest on November 1, 2004 and October 17, 2005, in violation of Government Code section 87100. (2 counts.) \$5,000 fine.

### Campaign Reporting Violations

**In the Matter of Physicians for the Group Practice of Medicine and Pauline Fox, FPPC No. 05/529.** Staff: Commission Counsel Amanda Saxton and Investigator Elaine Olmos-Flores. Respondent Physicians for the Group Practice of Medicine is a general purpose recipient committee sponsored by the Permanente Medical Group, Inc. and the Southern California Permanente Medical Group, and Respondent Pauline Fox served as its treasurer. Respondents failed to maintain the detailed accounts,

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records, bills, and receipts necessary to prepare a semi-annual campaign statement, in violation of Government Code section 84104. (1 count.) \$1,200 fine.

**In the Matter of Priya Mathur and Friends of Priya Mathur, FPPC No. 03/296.** Staff: Commission Counsel Amanda Saxton. Respondent Priya Mathur was a successful candidate for the Public Agency Member Seat on the Public Employees' Retirement System's Board of Administration ("CalPERS Board") in the 2002 election. Respondent Friends of Priya Mathur was her controlled committee, and Respondent Mathur served as its treasurer. Respondents failed to timely file campaign statements in violation of Government Code section 84225, subdivision (c) (2 counts); and Respondent Mathur failed to timely file her annual statement of economic interests in violation of Government Code section 87203. (1 count.) \$6,000 fine.

### Contribution Limit Violations

**In the Matter of Lloyd Levine and Lloyd Levine for Assembly, FPPC No. 04/651.** Staff: Senior Commission Counsel Melodee A. Mathay and Accounting Specialist Luz Bonetti. Respondent Lloyd Levine, a member of the California State Assembly - 40th Assembly District, and his controlled committee, Lloyd Levine for Assembly, accepted a loan in excess of the \$3,000 contribution limits in December 2001, in violation of Government Code section 85301, subdivision (a) (1 count), and failed to properly report the source of the loan on three campaign statements, in violation of Government Code sections 85309, subdivision (a) (1 count) and 84211, subdivision (g). (2 counts.) \$12,000 fine.

**In the Matter of Larry Levine and Jennifer Levine, FPPC No. 04/651.** Staff: Senior Commission Counsel Melodee A. Mathay and Accounting Specialist Luz Bonetti. Respondents Larry Levine and Jennifer Levine, of Van Nuys, California, are the parents of Lloyd Levine, a member of the California State Assembly - 40th Assembly District. In December 2001, Respondents made a loan to Lloyd Levine in excess of the \$3,000

contribution limits, in violation of Government Code section 85301, subdivision (a). (1 count.) \$4,000 fine.

### Lobbying Reporting Violations

**In the Matter of NEC Technologies, Inc., FPPC No. 02/318.** Staff: Commission Counsel Kourtney Vaccaro. Respondent NEC Solutions (America), Inc., formerly known as NEC Technologies, Inc., a Global Fortune 500 technology and computer company and a registered lobbyist employer, failed to timely file six paper lobbyist employer reports, in violation of Government Code section 86117, subdivision (a), (6 counts), and three electronic lobbyist employer reports, in violation of Government Code section 84605, subdivision (d). (3 counts.) \$31,500 fine.

### Late Contribution – Streamlined Program

Failure to Timely File Late Contribution Reports – Proactive Program. Staff: Chief Investigator Sue Straine and Political Reform Consultant Mary Ann Kvasager. The following entity has entered into a stipulation for failure to file a late contribution report in 2004 in violation of Government Code Section 84203:

- ♦ **In the Matter of Law Offices of Masry & Vititoe, FPPC No. 05/706.** Law Offices of Masry & Vititoe located in Westlake Village failed to timely disclose a late contribution totaling \$15,000.00. (1 count.) \$2,250 fine.

### Major Donor – Streamlined Program

Failure to Timely File Major Donor Campaign Statements. Staff: Chief Investigator Sue Straine and Political Reform Consultant Mary Ann Kvasager. The following entities have entered into stipulations for failing to file major donor campaign statements that were due during calendar years 2001 and 2002, in violation of Government Code Section 84200:

- ♦ **In the Matter of Cendant Corporation, FPPC No. 06/082.** Cendant Corporation of

(Continued on page 10)

(Continued from page 9)

Parsippany, New Jersey failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000.00 in 2001. (1 count.) \$400 fine.

- ♦ **In the Matter of Avis Rent A Car System, Inc., FPPC No. 06/083.** Avis Rent A Car System, Inc. from Parsippany, New Jersey failed to timely file semi-annual campaign statements disclosing contributions totaling \$60,400.00 in 2002. (2 counts.) \$1,354 fine.

## Civil Settlement

The Fair Political Practices Commission has reached a \$60,000 civil settlement with a California campaign committee sponsored by the national Democratic Party, and the treasurers of that committee, for failing to timely disclose \$1.2 million in contributions.

On March 17, 2006, the parties filed with the Sacramento County Superior Court a stipulation for entry of judgment and a proposed judgment. Superior Court Judge Shelleyanne W. L. Chang entered the judgment on April 17, and the defendants were served with the notice of entry of judgment on April 21.

In a civil complaint filed on February 25, 2005, the FPPC complaint alleged that the campaign committee, called the Democratic National Committee, Non-federal – Corporate, its treasurer and assistant treasurer made contributions totaling \$1.2 million dollars to the Democratic State Central Committee of California in connection with the November 7, 2000, general election, but did not disclose the contributions prior to the election.

The signed stipulation for entry of judgment stated in part, “By not filing a paper second pre-election campaign statement by October 26, 2000, disclosing the making of contributions totaling \$1,201,861, Defendants inadvertently violated Government Code section 84200.5, subdivision (d).”

The stipulation also stated, “By not filing an electronic second pre-election campaign statement by October 26, 2000, disclosing the making of contributions totaling \$1,201,861, Defendants inadvertently violated Government Code section 84200.5, subdivision (d).”





## Legislative Update

The following information on legislation is condensed from the Legislative Report prepared for the June 8, 2006, Commission meeting. For the complete report, please see the meeting agenda on our website at:

<http://www.fppc.ca.gov/index.html?id=329>

Current updates on bills can be found on the FPPC's website at :

<http://www.fppc.ca.gov/index.html?id=365>

**AB 583 (Hancock)** would enact the California Clean Money and Fair Elections Act of 2006, which establishes a voluntary system of public financing of political campaigns for all statewide elective offices and submits these provisions for voter approval on the June 3, 2008, primary election ballot. If passed by the voters, the "Clean Money Act" would authorize eligible participating candidates to obtain public funds to finance virtually all campaign activities. To be eligible for public financing, the candidate must be able to demonstrate support by collecting numerous small contributions. Candidates for statewide elective office who do not participate in the Clean Money Fund program would continue to be subject to existing contribution limits. The Fair Political Practices Commission would have primary responsibility for administering the provisions of the bill. AB 583 would create the Clean

Money Fund, and commencing on July 1, 2008, would transfer an amount per California adult resident, from the General Fund to the Clean Money Fund to finance the program. Funding for the administrative and enforcement costs of the program would be subject to appropriation by the Legislature.

**AB 709 (Wolk)** would impose a \$5,600 limit on contributions to ballot measure committees controlled by elective state office candidates. Primarily formed ballot measure committees would be subject to the post-election fundraising restrictions in the Act. The bill would aggregate contributions to multiple ballot measure committees in support of, or in opposition to, the same ballot measure that are controlled by the same state candidate. It would also require the Secretary of State to submit the bill's provisions to the voters.

**AB 1391 (Leno)** would clarify whether a general purpose committee is a state, county or city general purpose committee. It would add additional layers of Statement of Economic Interests income disclosure to include categories from \$100,000 to \$2 million. The bill would also expand upon the existing prohibition against personal use of campaign funds.

**AB 1558 (Wolk)** would initiate a pilot project to allow the Commission to issue opinions related to Government Code section 1090 questions.

**AB 1759 (Umberg)** would require committees other than primarily formed committees to disclose contributions or independent expenditures totaling \$5,000 or more to support or oppose the qualification or passage of a single state ballot measure within 10 business days of making the contribution or independent expenditure.

**AB 2112 (Karnette)** would limit the number of 120-day demands that may be filed by an individual or group to 10 within a 12-month period and would authorize a court to permit additional

*(Continued on page 12)*

## ...Legislative Update

*(Continued from page 11)*

filings under specified circumstances. This bill would also specify that a civil action by the individual or group is prohibited if the Commission issues an administrative order or publishes a declaration of no violation. It would require that the individual or group notify the respondent when a demand is made. The bill would also require that a court consider Commission rules and regulations in determining a judgment amount in cases brought under the civil action provisions.

**AB 2219 (Torrico)** would permit campaign committees to voluntarily collect the interest accrued by accounts regulated by the Political Reform Act and pay the collected amount to the State Treasury for appropriation to the Commission. These appropriated funds would be in addition to appropriations already specified in the Act for the Commission and could be expended only to carry out the parts of the Act that regulate electoral and campaign processes relating to ballot propositions.

**AB 2269 (Hancock)** would establish a process for amending a qualified initiative measure and require that a notice be placed at the top of each statewide ballot initiative petition to state that the proponent may amend the measure at a later time. The bill would also require the Attorney General to identify and place notice on measures that conflict with each other, and it would require the Secretary of State to group these measures together in the same part of the ballot.

**AB 2432 (Montanez)** would add additional layers of Statement of Economic Interests disclosure categories for reporting income and investments or interests in real property. The new categories would range from \$50,000 to \$10 million or more.

**AB 2627 (Koretz)** would designate the county board of education instead of the county board of supervisors as the conflict of interest code reviewing body for a school district in a multi-district county, a county office of education, a regional occupational center or program, or a school-related joint powers authority located wholly within a single county. It would also designate the Superintendent of Public Instruction as the code reviewing body for a county board of education, a county office of education of a county with only a single school district, or a school district of a county with only a single school district. The bill would also designate the Board of Governors of the California Community Colleges as the code reviewing body for all community college districts.

**AB 2771 (Leno)** would make findings and declarations of the Legislature regarding the failure of the Secretary of State to provide free online or electronic filing for entities required to file online or electronically by the Political Reform Act. The bill would delete the current limitation on the Secretary of State's ability to provide additional or enhanced functions or services for free online or electronic filing. The bill would also delay the online or electronic filing requirements for certain general purpose committees and slate mailer organizations with cumulative contributions and expenditures less than \$50,000 over 3 years until January 1, 2010, or until the first filing due more than 6 months after the Fair Political Practices Commission has certified that the free online filing processes developed by the Secretary of State are sufficiently simple to access and use.

**AB 2801 (Saldaña)** would create an expedited procedure to obtain a judgment to collect unpaid fines imposed by the Commission.

**AB 2964 (Levine)** would require that a late expenditure be reported within 12 hours rather than the currently required 24-hour time period.

**AB 2974 (Wolk)** would add to the lobbying disclosure required in quarterly reports itemization

*(Continued on page 13)*



## ...Legislative Update

*(Continued from page 12)*

of payments of \$1,000 or more to a public relations firm to develop strategy for the purpose of influencing legislative or administrative action and for payments urging others to communicate with any elective state official, legislative official, or agency official.

**AB X1 8 (Umberg)** would require the cover of the ballot pamphlet for any statewide special election called by the Governor on a redistricting initiative measure to include an estimate by the Legislative Analyst's Office of the costs to the state and local governments to conduct the special election.

**SB 11 (Bowen)** would prohibit a candidate for elective state or local office from accepting any contributions from a manufacturer or vendor of voting equipment or systems. This bill also would amend the Elections Code to declare that the Secretary of State cannot serve as an officer of a political party or partisan organization, or support or oppose any candidate or ballot measure.

**SB 145 (Murray)** would authorize an elected state officer to accept contributions after the date of the election to the office presently held for the purpose of paying expenses associated with holding office or for any other purpose authorized by the Political Reform Act of 1974, subject to certain limitations. The bill would set limits on the amount of contributions that may be made to an elected state officer in a calendar year and on the aggregate amount of contributions that a state officer may receive in a calendar year.

**SB 784 (Committee)** would extend the reporting threshold and deadline for payments for legislative, governmental, or charitable purposes made "at the behest of" an elected official from \$5,000 to \$7,000 and from 30 days to 90 days, respectively. It would also specify that such a payment made in response to a press release, interview, or other media-related communication

from an elected official is not required to be reported. In addition, it would add that an elected official is required to report such a payment only if he or she knows, or has reason to know, that a payment was made at his or her behest.

**SB 1120 (Ortiz)** would increase Commission funding to an annual appropriation of \$9,000,000, which would be adjusted annually for cost-of-living and workload changes. It would also specify that if a provision of the Political Reform Act is successfully challenged, any attorney's fees and costs shall be paid from the General Fund and the Commission's budget shall not be reduced accordingly. If passed, the bill would take effect on July 1, 2007.

**SB 1265 (Alquist)** would add layers of Statement of Economic Interests disclosure categories for reporting income to a business entity. The new categories would range from \$10,000 to \$1 million or more. The bill would also require candidates for and incumbents of elective state offices to file online or electronically as required by the Commission. The bill would provide that the Commission shall develop the process for free online or electronic filing by December 31, 2007.

**SB 1354 (Dunn)** would require a corporation that directly or indirectly makes political contributions or expenditures to report those contributions or expenditures to shareholders and to refund to objecting shareholders or to charity a pro rata share of those contributions or expenditures, based on the shareholders' proportionate ownership interests. It would require corporations to maintain records of the reports on these political contributions or expenditures for five years, and make them available to the Commission on request.

**SB 1459 (Simitian)** would enact the Insurance Commissioner Election Accountability Act of 2006, which would authorize eligible Insurance Commissioner candidates to obtain public financing from a fund made up of fees collected from insurers, reimbursements, and interest,

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## ...Legislative Update

*(Continued from page 13)*

provided that certain thresholds of public support are shown. The bill would impose responsibility for its administration on the Fair Political Practices Commission and provide specified penalties for violations of its provisions. This bill would require the Secretary of State to submit the provisions of this bill that amend the Political Reform Act to the voters for approval at the June 3, 2008, statewide primary election.

**SB 1579 (Committee)** would delete an obsolete cross-reference to a section that was repealed in 2000.

**SB 1693 (Murray)** would increase the major donor reporting threshold, from \$10,000 to \$30,000. It would also increase the threshold for major donor notification from \$5,000 to \$15,000.

**AB 1568 (Torrico)** would prohibit a member or employee of a retirement board, established pursuant to the County Employees Retirement Law of 1937, from selling or providing any investment product, which would be considered an asset of the fund, to the retirement system. It would require these boards to provide ethics trainings to all members of that board. If curricula are developed by the board, then it must consult with the Fair Political Practices Commission and the Attorney General regarding the sufficiency and accuracy of the proposed content.

**AB 2574 (Nunez)** would require the Commission to review the lobbying provisions of the Political Reform Act and make recommendations to the Assembly and Senate Elections Committees by December 31, 2007, as to whether changes should be made to those provisions to better serve the purposes of the Act.

**SB 1757 (Ortiz)** would direct the FPPC to request a study by the Commission on Peace Officer Standards and Training regarding designat-

ing investigators employed by the FPPC as peace officers who would not be authorized to carry firearms. The bill appropriates \$15,000 from the General Fund to the FPPC for the purpose of paying for this study.

**SCA 13 (Ortiz).** The California Stem Cell Research and Cures Act (Proposition 71) established the California Institute for Regenerative Sciences and the Independent Citizens Oversight Committee to perform various oversight functions with regard to the Institute. Members of the ICOC are required to file statements of economic interest with the FPPC. This constitutional amendment would require that the president and each employee of the Institute disclose various economic interests and file with the FPPC. It further requires that a member of any working or advisory group appointed to assist the institute or its governing body disclose his or her income and investments in any entity that has sought funding from the institute or that is engaged in biomedical research.

**SCA 17 (Speier)** would amend the California Constitution to prohibit a state officer from providing services under contract or otherwise accepting employment, other than performing the duties of his or her state office for compensation from the state, in exchange for compensation or other valuable consideration to that state officer or to any other party or entity.



**FPPC**  
**Toll-free Advice Line:**  
**1-866-ASK-FPPC**  
**(1-866-275-3772)**



## Litigation Report

Here is a report on pending litigation prepared for the Commission's June 8, 2006, meeting, with updates:

### ***California ProLife Council, Inc. v. Karen Getman et al.***

This action challenged the Act's reporting requirements for express ballot measure advocacy. In October 2000 the Federal District Court for the Eastern District of California dismissed certain counts and later granted the FPPC's motion for summary judgment on the remaining counts. Plaintiff appealed, and the Ninth Circuit Court of Appeal affirmed that the challenged statutes and regulations were not unconstitutionally vague, and that California may regulate ballot measure advocacy upon demonstrating a sufficient state interest in so doing. However, the Ninth Circuit remanded the matter back to the district court to determine whether California could in fact establish an interest sufficient to support its committee disclosure rules, and that its disclosure rules are properly tailored to that interest. On February 22, 2005, the court granted defendants' motion for summary judgment on these questions. Plaintiff again appealed. The parties, and amici who have filed two briefs supporting defendants, have now completed the appellate briefing, and expect that the appeal will be heard and decided in the summer of 2006.

### ***FPPC v. Agua Caliente Band of Cahuilla Indians, et al.***

The FPPC alleges in this action that the Agua Caliente Band of Cahuilla Indians contributed more than \$7.5 million to California candidates and ballot measure campaigns between January 1 and December 31, 1998, but did not timely file major donor reports disclosing those contributions, and likewise failed to disclose

more than \$1 million in late contributions made between July 1, 1998, and June 30, 2002. The FPPC later amended the complaint to add a cause of action alleging that the tribe failed to disclose a \$125,000 contribution to the Proposition 51 campaign on the November 5, 2002, ballot. Defendants responded to the lawsuit by filing a motion to quash service, alleging that they could not be civilly prosecuted because of tribal sovereign immunity. On February 27, 2003, the Honorable Loren McMaster of the Sacramento County Superior Court ruled in the FPPC's favor. Defendants filed a petition for writ of mandate in the Third District Court of Appeal, challenging the decision of the trial court. The petition was summarily denied on April 24, 2003, whereupon defendants filed a petition for review in the California Supreme Court. On July 23, 2003, the Supreme Court granted review and transferred the case back to the Court of Appeal. On March 3, 2004, the Court of Appeal affirmed the Superior Court's decision, concluding that "the constitutional right of the State to preserve its republican form of government trumps the common law doctrine of tribal immunity." On April 13, 2004, defendants filed a Petition for Review in the California Supreme Court. On June 23, 2004, the Supreme Court granted the Petition for Review. On September 23, 2004, defendants filed an opening brief with the Supreme Court. The FPPC filed its opposition brief on December 30, 2004, and on April 1, 2005, defendants filed a closing brief. Amicus briefs have been filed by a number of interested parties.

### ***FPPC v. Santa Rosa Indian Community of the Santa Rosa Rancheria***

In this action the FPPC alleges that the Santa Rosa Indian Community of the Santa Rosa Rancheria failed to file major donor semi-annual campaign statements in the years 1998, 1999, and 2001, involving more than \$500,000 in political contributions to statewide candidates and propositions, and that defendants failed to disclose more than \$350,000 in late contributions made in October 1998. The complaint was originally filed on July 31, 2002, and was amended on October 7, 2002. On January 17, 2003, defendants filed a motion to quash service, based on its

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## ...Litigation Report

(Continued from page 15)

claim of tribal sovereign immunity. On May 13, 2003, the Honorable Joe S. Gray of the Sacramento County Superior Court entered an order in favor of defendants. On July 14, 2003, the FPPC appealed this decision to the Third District Court of Appeal, where the matter was scheduled for oral argument. The Attorney General filed an amicus brief in support of the FPPC's position. The court heard oral argument on October 19, 2004, and on October 27, 2004, issued a decision in favor of the Commission overturning the trial court's granting of defendant's motion to quash. The tribe filed a petition for review with California Supreme Court which was granted on January 12, 2005. However, any action on the case has been deferred pending the outcome of the Agua Caliente case.

### ***Citizens to Save California, et al. v. FPPC***

On February 8, 2005, Citizens to Save California and Assembly Member Keith Richman filed a Complaint for injunctive and declaratory relief in Sacramento Superior Court challenging the Commission's adoption of regulation 18530.9 in June, 2005, which imposed on candidate-controlled ballot measure committees the contribution limit applied to the controlling candidate. Plaintiffs claim that the regulation violates the First Amendment, and that the Commission lacked statutory authority to adopt the regulation. Another group of plaintiffs led by Governor Schwarzenegger intervened in the action, and the court granted plaintiffs' motion for preliminary injunction, barring FPPC enforcement of regulation 18530.9 pending final disposition of the lawsuit. The Commission appealed, noting that the Superior Court's injunction was stayed while the appeal was pending. On April 25, the Superior Court determined that its injunction remained in effect, and a writ petition challenging this finding in the Court of Appeal was denied. Ruling next on the Commission's demurrer to the complaints, on May 26 Judge Chang indicated that further proceedings in the Superior Court were stayed pending resolution of the Commission's appeal of the preliminary injunction. The parties

have completed their appellate briefing and now await assignment of a hearing date.

### ***FPPC v. Chad M. Condit, et al.***

On January 10, 2006, the FPPC filed suit against Chad Condit, Cadee Condit, and the Justice PAC. The suit seeks civil penalties against Chad Condit and the Justice PAC for violation of the Act's personal use provisions and its prohibition on cash expenditures. The suit also seeks civil penalties against Cadee Condit for violation of the personal use provisions. Cadee Condit was served on February 12, 2006, and filed a demurrer on March 29. However, the court subsequently overruled the demurrer. Service was effected on Chad Condit and the Justice PAC, and he failed to file his responsive pleadings by the May 1, 2006, due date. The Enforcement Division is now taking steps to obtain a default judgment against Chad Condit.



**Fair Political  
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Commission  
Toll-free Advice Line:  
1-866-ASK-FPPC  
(1-866-275-3772)**



## FPPC Advice Summaries

Formal written advice provided pursuant to Government Code section 83114 subdivision (b) does not constitute an opinion of the Commission issued pursuant to Government Code section 83114 subdivision (a) nor a declaration of policy by the Commission. Formal written advice is the application of the law to a particular set of facts provided by the requestor. While this advice may provide guidance to others, the immunity provided by Government Code section 83114 subdivision (b) is limited to the requestor and to the specific facts contained in the formal written advice. (Cal. Code Regs., tit. 2, §18329, subd. (b)(7).)

Informal assistance may be provided to persons whose duties under the Act are in question. (Cal. Code Regs., tit. 2, §18329, subd. (c).) In general, informal assistance, rather than formal written advice is provided when the requestor has questions concerning his or her duties, but no specific government decision is pending. (See Cal. Code Regs., tit. 2, §18329, subd. (b)(8)(D).)

Formal advice is identified by the file number beginning with an "A," while informal assistance is identified by the letter "I." Letters are summarized by subject matter and month issued.

## Campaign

**Diane Guyon**  
**El Dorado County**  
**Dated: March 7, 2006**  
**File Number A-05-214**

A county recorder-clerk sought advice regarding whether fees associated with mailing or faxing campaign statements can be charged to requestors in addition to the rate of ten cents per page for copying. Section 81008, which is the provision handling the reports and statements filed

under the Act, does not specifically provide for, or authorize the charging of an additional fee for postage and/or faxing. The statute provides that fees may not exceed the copy charge of ten cents per page and the retrieval charge of five dollars per request for documents which are five or more years old. It would further the purposes of the Act to provide copies of statements and reports via ordinary mail at no cost.

**James V. Lacy**  
**Wewer & Lacy, LLP**  
**Dated: March 16, 2006**  
**File Number A-06-017**

A slate mailer organization's communications, via email and website postings, do not meet the Act's definition of slate mailers, and therefore need not include slate mailer identification and disclosure statements. Depending on its activities, the slate mailer organization may qualify as a "committee," with separate reporting obligations in addition to those of slate mailer organizations.

**Michael A. Paiva**  
**Personal Insurance Federation of California**  
**Dated: February 2, 2006**  
**File Number A-06-014**

A lobbyist plans to host a fundraiser in his home for a candidate. The lobbyist will pay up to \$500 in personal funds for the fundraiser and asks whether the home/office fundraiser exception in section 82015(f) will apply if the candidate provides food and drink which will bring the total cost of the event over \$500. The letter advises that in order to meet the exception in section 82015(f), the total cost of the event may not exceed \$500, including the cost of food and drink provided by the candidate.

**Anthony Watson**  
**Dated: February 3, 2006**  
**File Number A-06-002**

A potential candidate for the Assembly is advised that the cost associated with purchasing space to put a candidate statement in the voter information portion of the sample ballot shall be incurred by the candidate. This potential candi-

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date is also advised that the total cost for placing this candidate statement in the sample ballot pamphlet is not addressed by the Act.

**Lance H. Olson**  
**Olson Hagel & Fishburn, LLP**  
**Dated: January 4, 2006**  
**File Number I-05-239**

As set forth in regulation 18531.7, where a member organization uses its sponsored committee to pay a vendor for a communication with the organization's members, and in connection with that communication the vendor makes payments to secondary vendors of \$500 or more during a reporting period, the committee is required to report the secondary vendors. Sponsored organizations and their sponsored committees are covered by regulation 18531.7, subdivision (f), and so must report as expenditures a committee's payment for member communications in accordance with the requirements of section 84211, subdivisions (b), (i), (j), and (k)(1), (2), (3), (4), and (6).

**Carla Wardlow**  
**Fair Political Practices Commission**  
**Dated: January 10, 2006**  
**File Number I-06-001**

This letter advises that political party committees may combine pre-election statements for the state special election to be held April 11, 2006, to fill a vacancy in the 35<sup>th</sup> Senate District.

**James R. Sutton**  
**The Sutton Law Firm**  
**Dated: January 11, 2006**  
**File Number A-05-256**

This letter advises that under circumstances described in the letter, an organization established under IRS code 501(c)(4) to provide funding for costs associated with the transition into the mayor's office and inaugural events, such as receptions, would not qualify as a committee under the Act. In addition, payments to the organization would not be considered gifts to the mayor. The aggregate total of

payments to the organization are however, reportable at the \$5,000 level.

## Conflicts of Interest

**Frederick G. Soley**  
**City of Vallejo**  
**Dated: March 1, 2006**  
**File Number I-05-229**

A local public official is advised that he has a potential conflict of interest in participating in a governmental decision regarding a potential merger of redevelopment areas where he has an ownership interest in a property located within 500 feet of one of the redevelopment areas.

**Elizabeth Wagner Hull**  
**City of Chula Vista**  
**Dated: March 23, 2006**  
**File Number I-06-003**

The Act's conflict-of-interest rules do not prohibit a city council member from participating in a governmental decision relating to a specific plan for his city because his brother owns a consulting firm that does work for a client that wishes to influence the specific plan, provided the "otherwise related business entity" regulation does not apply.

**John W. Stovall**  
**City of Lathrop**  
**Dated: March 6, 2006**  
**File Number I-06-018**

A city council member is prohibited from meeting with city staff, under the budgetary control of the city council, as a paid consultant for development projects. However, the Act does not prohibit the council member from accepting employment as a paid consultant so long as the council member disqualifies himself from any governmental decision in which he has a conflict of interest.

**Debbi Cotton**  
**Ocean View School District**  
**Dated: March 15, 2006**  
**File Number A-06-019**

A member of a school district board of trustees

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will have a conflict of interest in a decision on the teachers' union contract and teacher salaries where the trustee has received at least \$500 in income from a teacher in the district and the decision will affect the teacher by \$1,000 or more.

**John P. Thompson**  
**City of Vallejo**  
**Dated: March 9, 2006**  
**File Number I-06-023**

A city manager, who worked on a disposition and development agreement as a consultant for a private developer prior to becoming the city manager, is prohibited from participating in redevelopment projects if such projects have a reasonably foreseeable material financial effect on the developer, the developer's related business entity, or the city manager's personal finances.

**Arlene Gonzales-Gee**  
**City of Pismo Beach**  
**Dated: March 13, 2006**  
**File Number I-06-028**

A city council member is not precluded by the conflict-of-interest provisions of the Act from participating in a decision relating to a project merely because the council member attended and spoke at a planning commission meeting at which the commission was considering action regarding the project. The Act's conflict-of-interest provisions apply to financial interests and the mere act of attending and speaking about a project at a meeting does not amount to a financial interest. The advice is limited to the provisions of the Act; other laws may apply.

**Howard Weinberg**  
**New Motor Vehicle Board**  
**Dated: March 17, 2006**  
**File Number I-06-032**

A state board may accept offers for the free use of office space for settlement conferences so long as the requirements of regulation 18944.2 are met. The gift will be considered made to the agency and not its members.

**Steven G. Churchwell**  
**City of Benicia**  
**Dated: March 30, 2006**  
**File Number A-06-034**

A city council member is not disqualified from participating in a building permit decision for an applicant who had paid a fee to the council member's mortgage broker company, more than 12 months prior to the governmental decision, for services the company had provided, unless additional facts establish a reasonably foreseeable financial effect on his economic interest(s).

**Heather K. Whitman**  
**City of Torrance**  
**Dated: March 27, 2006**  
**File Number A-06-038**

A city council member is not disqualified from participating in a decision to restrict on-street parking of recreational vehicles, trailers, and oversized vehicles despite owning recreational vehicles, unless additional facts establish a reasonably foreseeable material financial effect. However, the city council member is disqualified from participating in the decision to impose a registration fee on the owners of recreational vehicles, trailers, and oversized vehicles, unless the financial effect of the registration fee on the council member's personal finances is less than \$250 for any 12-month period.

**George Spanos**  
**Department of Justice**  
**Dated: March 30, 2006**  
**File Number I-06-046**

A commissioner will have a conflict of interest in any decision that will have a material financial effect on his source of income (which is a governmental agency). However, if the decision is of the type that affects the public in general and will not uniquely benefit the commissioner or his businesses, the "public generally exception" will apply and the commissioner will be able to participate in the decisions.

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**Charles T. Kilian**  
**City of Cupertino**  
**Dated: February 2, 2006**  
**File Number I-06-006**

A city council member is not disqualified from participating in land use and zoning decisions related to land owned by a business entity which he provides services to through a temporary employment agency, unless additional facts establish a reasonably foreseeable material financial effect.

**Douglas P. Haubert**  
**Aleshire & Wynder, LLP**  
**Dated: February 3, 2006**  
**File Number A-05-255**

A mayor will not have a conflict of interest in decisions relating to a proposed development, if they would not have a reasonably foreseeable material financial effect on any of the mayor's economic interests. The fact that the mayor's business is a subcontractor to a subcontractor working on another parcel of property owned by the applicant does not make the applicant a "source of income" to the mayor.

**Deborah Cave**  
**City of Chula Vista**  
**Dated: February 14, 2006**  
**File Number A-06-013**

The fact that all members of a city own property in a proposed zone that will prohibit registered sex offenders from residing in the zone will disqualify them from voting on adopting the proposed buffer. However, the decisions on which the mayor and council will be called upon to vote may affect enough property owners in the city that the "public generally" exception would apply. If the "public generally" exception will not apply and a quorum cannot be convened, the city may invoke the rule of legally required participation to bring back enough council members to create a quorum.

**Ricardo Diaz**  
**Dated: February 22, 2006**  
**File Number I-06-021**

The Act's conflict-of-interest rules do not pro-

hibit a planning commissioner from participating in a governmental decision relating to a proposed development project that is 524 feet away from the commissioner's residence, provided he has no economic interest in a common area that is less than 500 feet away from the development. He does not have an economic interest in the common area if his interest is worth less than \$2,000.

**Dave Cornejo**  
**City of Dixon**  
**Dated: February 23, 2006**  
**File Number I-06-010**

A member of a city planning commission is not disqualified from participating in city council decisions involving rezoning land to "school" uses despite his employment as a fiscal manager with a state agency unless additional facts establish a reasonably foreseeable material financial effect.

**Joshua E. Morrison**  
**Atkinson, Adelson, Loya, Ruud & Romo**  
**Dated: January 4, 2006**  
**File Number A-05-244**

The public official, a school board district member, was advised that a campaign contribution she received is considered neither a gift nor income for the purposes of a conflict of interest under section 87100 of the Act. Moreover, the disqualification provisions of section 84308 of the Act do not apply to local government agency officials, such as school district board members, who are directly elected by the voters.

**John W. Stovall**  
**Neumiller & Beardslee, LLP**  
**Dated: January 4, 2006**

A church that sells a transferable development right, at fair market value, is not a "source of income" to the public official who purchases that right.

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**Brian Taugher**  
**The Foundation for California Community Colleges**

**Dated: January 26, 2006**

**File Number A-05-221**

The Foundation for California Community Colleges is advised that the Act's conflict-of-interest provisions do not prevent it from hiring a current employee of the California Community Colleges Chancellor's Office because the provisions apply only to individual "public officials" and not to entities.

## Conflict of Interest Code

**Edward G. Heidig**  
**Business, Transportation & Housing Agency**

**Dated: January 31, 2006**

**File Number A-05-074**

The advice letter addresses whether a state advisory council is a state agency which must be included in a conflict of interest code and whether the council members are members of a decisionmaking body.

**Richard Carlile**  
**City of Santa Rosa**  
**Dated: January 4, 2005**  
**File Number I-05-246**

A city Downtown Business Improvement Area Advisory Board is a local government agency required by section 87300 to formulate and adopt a conflict of interest code. However, whether the members of the advisory board are filers under the city's conflict of interest code is a determination to be made by the city council, the code reviewing body.

## Gift Limits

**J. Antonio Barbosa**  
**Agricultural Labor Relations Board**  
**Dated: March 10, 2006**  
**File Number A-06-027**

A designated employee of a state agency may accept an offer to purchase products or

services from a phone vendor at a discount if the same discount is offered by the vendor to all state employees and is made in the regular course of the vendor's business. The discount is not considered to be a gift for purposes of the Act's reporting, gift limit, or conflict-of-interest rules.

## Mass Mail

**Carol Cowley**  
**City of La Puente**  
**Dated: February 15, 2006**  
**File Number I-05-227**

The Act's restrictions upon mass mailings at public expense apply to advertisements wholly paid for by a city council member placed in a newspaper funded by the city. Such restrictions do not apply to the privately-paid advertisements of candidates for the city council who are not incumbents.

## Personal Use

**Michael R. W. Houston**  
**Rutan & Tucker, LLP**  
**Dated: January 31, 2006**  
**File Number A-05-249**

A council member may use funds from his city council campaign committee to pay for attorneys' fees in connection with his lawsuit against the city. The council member may also be reimbursed by his city council campaign committee for attorneys' fees and litigation costs he has paid in connection with his suit if the requirements of section 89511.5 are satisfied. In the action against the city, the council member sought to prevent release of his personal e-mails. The council member may use funds from his city council campaign committee to pay for attorneys' fees in connection with his lawsuit against the city because the litigation arises directly out of his activities, duties or status as a candidate or elected officer. In addition, the council member may be reimbursed by his city council campaign committee for attorneys' fees and litigation costs because the legal fees paid are officeholder expenses.

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## Statements of Economic Interests

**J. Jeffrey Mojcher**  
**OSHA Appeals Board**  
**Dated: March 1, 2006**  
**File Number A-06-020**

A public official owns stocks held in joint tenancy with his mother. The official has no knowledge about what she invests and she would be the one to make all decisions concerning the stock. However, because joint tenancy provides that each party owns an undivided interest in the stock, the official must report on his Form 700 each investment valued at \$2,000 or more.

**Mark Cibula**  
**Cibula & Cibula, LLP**  
**Dated: March 2, 2006**  
**File Number I-06-024**

The Act's definition of "gift" does not include rebates or discounts made in the regular course of business to members of the public without regard to the recipient's official status. Because a private foundation is providing benefits to an official's daughter as part of its mission and policies, and these benefits are available to the general public without regard to status as a public official, the benefits are not a "gift."

**Lorena Gonzalez**  
**Dated: February 2, 2006**  
**File Number A-05-251**

An official need not disclose her residence used as a personal residence for her parents and grandparents so long as the residence does not constitute any other type of reportable interest, such as a reportable investment, reportable income, or reportable interest in real property. However, the property is still a potentially disqualifying economic interest, for purposes of section 87100.

**Kristine Loomis**  
**Dated: January 11, 2006**  
**File Number A-05-217**

An official must disclose reportable interests held by her special needs trust, including sources of income received by the trust of \$500 or more during the reporting period and gifts to the trust of \$50 or more. In addition, if the fair market value of assets of the trust equals or exceeds \$2,000, she must also report the trust on her statement of economic interests.

